

EXHIBIT H

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 TRENTON DIVISION

4 -----
5 THEODORE KOZIOL and : CIVIL ACTION
6 LOIS KOZIOL, : :
7 Plaintiffs, :
8 vs :
9 BOMBARDIER-ROTAX GmbH, :
10 BOMBARDIER, INC. KODIAK:
11 RESEARCH, LTD., and :
12 ROTECH RESEARCH CANADA, :
13 LTD., a/k/a KODIAK :
14 RESEARCH CANADA, LTD., :
15 Defendants : NO. 00-1938

16 -----
17 -----
18 Friday, December 13, 2002
19 -----
20 -----
21 -----
22 Videotape examination of JOSEF FURLINGER,
23 held at the offices of Avitat Sky Service,
24 9785 Ryan Avenue, Montreal, Quebec, Canada,
1 commencing 10:44 a.m., on the above date,
2 before Mickey Dinter, Registered Professional
3 Reporter and Notary Public for the State of
4 New Jersey.

5 -----
6 BRUSILOW & ASSOCIATES
7 COURT REPORTERS & VIDEOGRAPHERS
8 CMS Building
9 1926 Arch Street, First Floor West
10 Philadelphia, PA 19103
11 (215) 977-9700
12 -----
13 -----

14 Q. I will do my best.

15 Mr. Furlinger, what is the
16 name of the company that employs you?

17 A. The name of the company is
18 Bombardier-Rotax GmbH.

19 Q. Can we agree that company for
20 purposes of this deposition is Rotax to make
21 it easier for me?

22 A. Yes; for me easier, too.

23 Q. Good.

24 And can you tell me where

6

1 that company is physically located?

2 A. The company is physically located
3 in Gunsvirchen, Austria.

4 Q. And would you tell me what is the
5 business of the company, Rotax?

6 A. The business of the company Rotax
7 is to produce engines for various
8 applications.

9 Q. And would you tell the jury, in
10 this case, I guess, the court, what kind of

11 engines Rotax produces?

12 A. Engines for ultra-lights; in this
13 particular case, for snowmobiles, ATV's,
14 motorcycles and Sea Do's.

15 Q. A Sea Do is a water craft?

16 A. Water craft.

17 Q. Does Rotax produce engines for
18 manufacturers other than Bombardier?

19 A. Yes.

20 Q. Would you tell us the manufacturer
21 for whom Rotax produces engines?

22 A. It's Abrillia and BMW.

23 Q. Now, Abrillia is an Italian
24 motorcycle manufacturer, is it not?

1 A. That's correct; it's an Italian
2 motorcycle manufacturer.

3 Q. And do you know what models of the
4 Abrillia motorcycle Rotax makes engines for?

5 A. Not in particular.

6 Q. Do you know whether Abrillia
7 markets motorcycles that contain Rotax

5 Q. Do you know where BMW Motorcycles
6 USA is physically located?

7 A. No.

8 Q. Has anyone ever told you that BMW
9 Motorcycles USA is located in New Jersey?

10 A. We do only business with BMW
11 Motorcycle in Germany.

12 Q. All right. My question, however,
13 is did you know that BMW Motorcycles USA is
14 located in New Jersey?

15 A. No.

16 Q. Did anyone ever tell you that BMW
17 USA imports BMW motorcycles with Rotax
18 engines into the state of New Jersey?

19 A. No.

20 Q. Have you ever seen a BMW type
21 F650, I may have asked you this before, in
22 the U.S.?

23 A. No.

24 Q. Does Rotax put any restriction on

1 either Abrillia or BMW from importing

1 A. Yes. Kodiak Research Nassau

2 Bahamas -- I would say Kodiak --

3 Q. Let's call it Kodiak.

4 A. -- is a North and South American
5 distributor for Rotax ultra-light aircraft
6 engines.

7 Q. All right. Who established the
8 territory for Kodiak?

9 A. By who, you mean?

10 Q. I will withdraw the question.

11 Did Rotax give Kodiak the
12 territory which included the United States
13 to sell Rotax engines?

14 A. Yes.

15 Q. Did the territory in the
16 United States that Rotax gave Kodiak for
17 sale of Rotax engines include the state of
18 New Jersey?

19 A. We did not specify any specific
20 state. But, it means the entire U.S.

21 Q. It means all the states of the
22 U.S., is that a fair statement?

23 A. That's a fair statement.

24 Q. What is Rotax -- what is Kodiak

1 A. Correct.

2 Q. And do each of these dealers have
3 a certain territory, an area of
4 responsibility, for the sale of Rotax
5 engines?

6 A. I don't know.

7 Q. You have no knowledge of that?

8 A. No.

9 Q. Is the answer, yes, you have no
10 knowledge of that?

11 A. I don't have any knowledge about
12 this.

13 Q. No knowledge about the dealers?

14 MR. KELLY: Objection. The
15 question was whether he had knowledge
16 of territories, not whether or not he
17 had knowledge of the dealers.

18 MR. WOLK: That's fair.

19 BY MR. WOLK:

20 Q. Do you have any knowledge that
21 these dealers appointed by Kodiak have
22 territories or areas of their responsibility
23 to sell Rotax engines?

24 A. I have no knowledge what about the

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1 relationship between Kodiak and the dealers.

2 Q. Have you ever met any of the
3 dealers?

4 A. Occasionally, I have met one or
5 two of the dealers.

6 Q. Have you met all of the dealers?

7 A. Of the four dealers which I'm
8 aware of, I have met all four.

9 Q. Yes. And have you discussed with
10 the gentleman in Mississippi his territory
11 for the sale of Rotax engines?

12 A. No.

13 Q. Are you sitting here today,
14 Mr. Furlinger, are you telling us that you
15 did not know that the Mississippi dealer has
16 the state of New Jersey as his territory for
17 the sale of Rotax engines?

18 A. I said before that I have no
19 knowledge about the set-up or the
20 distribution of engines from the service

21 centers and their duties.

22 Q. That's not my question. My
23 question is: Sitting here today in this
24 deposition, are you telling the Court that

32

1 you don't know that the Mississippi dealer
2 has, as his territory for the sale of Rotax
3 engines, among other places, the state of
4 New Jersey?

5 MR. KELLY: Mr. Wolk, are you
6 representing to the witness that there
7 is a territorial arrangement among the
8 service centers?

9 MR. WOLK: I'm not
10 representing anything. I'm asking the
11 witness whether he knows it.

12 MR. KELLY: The question is
13 suggesting to him that that is a fact.
14 That's why I'm making the objection.

15 MR. WOLK: That's fine. Are
16 you directing him not answer?

17 MR. KELLY: No.

18 MR. WOLK: Thank you.

19 BY MR. WOLK:

20 Q. Mr. Furlinger --

21 A. As I said, I have no knowledge
22 about the distribution of, if there is an
23 agreement between Kodiak and his dealers.

24 I have no knowledge about that.

33

1 Q. All right. Do you know if Kodiak
2 and the dealers have written agreements?

3 A. I don't know.

4 Q. Have you ever seen a written
5 agreement between Kodiak and any of its
6 dealers?

7 A. No.

8 Q. Have you ever heard of the
9 existence of an agreement between Kodiak and
10 its dealers?

11 A. No.

12 Q. Have you ever required that Kodiak
13 have a written agreement between itself and
14 its dealers?

15 A. No.

16 Q. What is the purpose of the
17 dealers' requirement on Kodiak?

18 A. Can you define for me, please, the
19 purpose?

20 Q. Yes. Why does Rotax require
21 Kodiak to appoint dealers in the U.S.?

22 A. Well, as I said before, it's an
23 obligation of Kodiak to set up dealers by
24 its own. It's not he can choose it if he

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1 wants.

2 Q. I understand why. What is the
3 reason that Rotax wants Kodiak to establish
4 dealers in the U.S.?

5 A. As I said before, the product
6 support is one of important thing.

7 Q. Tell us why that is.

8 A. Well, it's to have an access to
9 spare parts.

10 Q. Access to spare parts by whom?
11 A. By users.

12 Q. You mean by someone who buys a
13 Rotax engine for an ultra-light if he needs
14 spare parts, you want to be able to have
15 people who are available to supply those
16 spare parts? Is that part of product
17 support?

18 A. Yes.

19 Q. Now, are there people within the
20 United States who are not distributors, who
21 are not dealers, but are spare parts
22 salespersons? Do you understand the
23 question?

24 A. Not really clearly.

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1 Q. I'm sorry, I will try it again.
2 Are there people who have
3 been designated to sell spare parts locally
4 for Rotax engines who are not dealers and
5 who are not the distributor?

6 A. Well, as I said, we do only
7 business with Kodiak and we don't do
8 business with someone else.

1 Those are service centers from Kodiak.

2 Q. Are they the only service centers
3 for Rotax engines in the U.S., just those
4 four dealers?

5 A. By my knowledge, yes.

6 Q. You don't know of the existence of
7 any Rotax aircraft engine service center
8 other than the four dealers from Kodiak?

9 A. No.

10 Q. Are the four dealers from Kodiak
11 authorized Rotax aircraft engine service
12 centers?

13 A. Those are authorized service
14 centers from Kodiak.

15 Q. What are they authorized to do?

16 A. They are authorized to perform
17 certain work on it; to distribute spare
18 parts.

19 Q. And distribute engines as well,
20 right?

21 A. Engine is a component; could be
22 distributed.

23 Q. All right. Now, is there any --
24 strike that. Does Rotax approve of the

1 designation of dealers by Kodiak in the
2 U.S.?

3 MR. KELLY: Objection to the
4 form. For clarification, do you mean
5 approve of specific individuals or
6 approve in general of the establishment
7 of service centers?

8 MR. WOLK: That's a good
9 point.

10 BY MR. WOLK:

11 Q. Did Rotax review the qualifications
12 of any of the dealers proposed by Kodiak for
13 the sale of Rotax engines or spare parts in
14 the U.S.?

15 A. No.

16 Q. Did Rotax establish any training
17 program for dealers of Kodiak in the U.S.?

18 A. No.

19 Q. Does Rotax require that dealers
20 for Rotax engines in the U.S. be trained and
21 qualified to work on those engines?

22 A. We have no obligation to this.

5 Q. What was the occasion that they
6 all got there together?

7 A. Well, probably they want to see
8 the factory one time.

9 Q. Did you discuss with the dealers
10 at that time the marketing of Rotax engines
11 in the U.S.?

12 A. No.

13 Q. Did you discuss with the dealers
14 at that time the sales of spare parts in the
15 U.S.?

16 A. No.

17 Q. Did you discuss with the dealers
18 at that time the training of their personnel
19 to be qualified to work on Rotax engines in
20 the U.S.?

21 A. No.

22 Q. Did you provide anything in
23 writing to the dealers?

24 A. No.

1 Q. Did Kodiak at anytime report to

2 Rotax what territory in the U.S. each of the
3 dealers had?

4 A. No.

5 Q. Has Rotax communicated directly
6 with the Kodiak dealers in the U.S.?

7 A. Not directly in the U.S.

8 Q. So, in other words, Rotax has not
9 sent any correspondence or documents to any
10 of the Kodiak dealers in the U.S.?

11 A. No.

12 Q. Have you ever visited the
13 Mississippi light aircraft place of
14 business?

15 A. I saw him, maybe, once in a show.

16 Q. No. Did you ever go to his place
17 of business in Mississippi?

18 A. No.

19 Q. Never did that?

20 A. No.

21 Q. You don't know what it looks like?

22 A. No.

23 Q. All right. Has Rotax ever
24 suggested retail prices for its products?

1 A. We do have suggested retail price,
2 but it's only recommendations.

3 Q. All right. And who do you suggest
4 that retail price to?

5 A. Only to our authorized distributor
6 such as Kodiak.

7 Q. And what do you expect Kodiak to
8 do with that suggested retail price?

9 A. Well, he can use it as a guideline
10 if he wants.

11 Q. Does he also suggest that same
12 retail price to his dealers?

13 A. I don't know.

14 Q. What is the purpose of suggesting
15 a retail price?

16 A. The purpose of a retail price,
17 suggested retail price, is just to give a
18 guideline, a general guideline.

19 Q. Is that to give a guideline to any
20 one of either your distributors or the
21 dealers who sell the engines?

22 A. I said before, it's a guideline
23 for authorized distributors and it does not
24 mean that it has been necessarily -- it just

24 A. It could be someone who buys one

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1 single engine.

2 Q. Okay. All right. So, if I were a
3 customer for a Rotax engine, let's say I
4 wanted to buy an aircraft engine for an
5 ultra-light I was building, is the suggested
6 retail price the price Rotax is suggesting
7 that I pay?

8 A. Well, this depends also on the
9 national duty tax, whatever it applies on
10 the total. It could be different.

11 Q. I understand. I want to know what
12 your meaning, Rotax's idea is behind the
13 suggested retail price.

14 A. That's the idea that we have.

15 It's the price, approximately the price what
16 an end user should pay for it.

17 Q. Is an end user a person who buys
18 an engine, an aircraft engine, for example,
19 for his ultra-light?

20 A. Who buys a single engine for

21 whatever kind of use.

22 Q. Okay. Very good.

23 Now, does Rotax require

24 Kodiak to advertise Rotax engines?

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1 A. We don't necessarily require
2 advertising.

3 Q. Does Rotax pay for all or part of
4 advertising that is placed by Kodiak?

5 A. No.

6 Q. Is there an advertising budget for
7 Rotax with Kodiak?

8 A. No.

9 Q. Is there a recommended advertising
10 budget for Kodiak?

11 A. No.

12 Q. Is Kodiak supposed to be
13 advertising Rotax engines for sale in the
14 U.S.?

15 A. What is your definition of
16 supposed?

17 Q. Does Rotax expect Kodiak to

18 advertise Rotax engines for sale in the
19 U.S.?

20 A. Well, we expect that the dealer
21 does a certain advertising.

22 Q. The dealer?

23 A. Authorized distributor, sorry.

24 Q. So, would it be fair then that

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1 Rotax expects the distributor to advertise
2 Rotax engines for sale in the U.S.?

3 A. Well, as an authorized
4 distributor, he would make a certain
5 advertising of course to where it goes.

6 Q. In other words, you would expect
7 Kodiak to advertise the sale of Rotax
8 engines in the U.S. to increase or, at
9 least, maintain the sales volume that he
10 has, is that a fair statement?

11 A. Well, it's a decision of Kodiak,
12 whatever he does. We don't have any control
13 of it.

14 Q. You have no control over the

15 advertising?

16 A. No.

17 Q. Right?

18 A. No.

19 Q. Isn't it a fact that Kodiak has to
20 send for approval all the advertising that
21 it does in the U.S.?

22 A. We request such that he send
23 something in.

24 Q. Allow me to show you what has been

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1 marked for identification as Furlinger-2.

2 Have you ever seen that document before?

3 A. Yes.

4 Q. And in this document, it would
5 be -- let's start with the first page of it.

6 It says, "Circular Letter," the cover page.

7 Is that a document prepared by Rotax?

8 A. Yes.

9 Q. And is that a document that was
10 sent to Kodiak?

11 A. It's sent to every Rotax

12 authorized distributor for ultra-light
13 aircraft engines.

14 Q. Is it sent to the dealers as well?

15 A. No.

16 Q. Going to page 2, it says "Usage of
17 the Rotax Aircraft Engines Logo," is that
18 correct?

19 A. It says on the top, "Usage of
20 Rotax Aircraft Engine Logo."

21 Q. Did Rotax establish a logo, a new
22 logo, for its aircraft engines?

23 A. Yes.

24 Q. What was the logo before this

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1 logo?

2 A. Did not have "aircraft engines"
3 below.

4 Q. All right. Now, Rotax has changed
5 its logo to be "Rotax Aircraft Engines," is
6 that right?

7 A. Yes.

8 Q. And this document that is dated

20 only four authorized Rotax aircraft engine
21 service centers in the U.S.?

22 A. That is my understanding.

23 Q. So, you don't know that there are
24 other Rotax aircraft service centers in the

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1 U.S., is that your testimony today?

2 A. Yes.

3 Q. All right. So, as far as you
4 know, any authorized Rotax service center
5 for aircraft engines is one of those four
6 dealers we talked about?

7 A. Yes.

8 Q. Does Rotax make signs for
9 authorized service centers to use?

10 A. No.

11 Q. Does Rotax make warranty cards or
12 forms for authorized service centers to use?

13 A. No.

14 Q. Does Rotax print any forms for
15 Kodiak to use for its dealers?

16 A. What means form?

17 Q. Does Rotax sell to Kodiak forms
18 for Kodiak to use for asking for warranty
19 reimbursement?

20 A. No.

21 Q. Does Rotax approve advertising
22 that Kodiak places in various publications
23 in the U.S. for the sale of Rotax aircraft
24 engines?

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1 MR. KELLY: Objection. Do
2 you mean pre-approved or the practice
3 in general of placing advertising?

4 MR. WOLK: Pre-approved.

5 MR. KELLY: Pre-approved
6 specific advertisements?

7 MR. WOLK: Yes.

8 THE WITNESS: No.

9 BY MR. WOLK:

10 Q. Does Rotax review advertising
11 placed by Kodiak in publications in the
12 U.S.?

13 A. No.

14 Q. Is Rotax aware of advertising
15 placed by Kodiak for Rotax engines in the
16 U.S.?

17 A. The general practice is Kodiak
18 does not send anything to us since I cannot
19 be aware about it.

20 Q. I see. So, are you telling me
21 that even though Furlinger-2, specifically
22 pages 3, says that the failure to send
23 advertising before publication can result in
24 cancellation of the contract, Rotax doesn't

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1 see any of the advertising before it's
2 published?

3 A. That's correct.

4 Q. Doesn't see any of the advertising
5 after it's published?

6 A. We don't know who is the
7 publications. I mean, it could be -- that
8 is very broad.

9 Q. Have you ever seen any advertising
10 for Rotax engines in the U.S.?

21 between Rotax and Kodiak?

22 A. Yes.

23 MR. WOLK: What I will do,

24 Bob, further to that discussion with

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1 Judge Hughes, instead of attaching it
2 to the transcript, I will just retain
3 this separately so that we don't even
4 by mistake run afoul of it.

5 MR. KELLY: Fine.

6 BY MR. WOLK:

7 Q. Now, does Rotax give any warranty
8 for the engines it sells?

9 A. Very few.

10 Q. Okay. Does Rotax have a limited
11 warranty that goes with the engines it
12 sells?

13 A. Yes.

14 Q. And does Rotax -- is that warranty
15 in writing?

16 A. The warranty is in writing.

17 Q. And can you tell me if that

18 written warranty goes with the engines when
19 the engines are sold?

20 A. Well, it's a part of the
21 operator's manual.

22 Q. Okay. And that operator's manual
23 goes with the engines, right?

24 A. Correct.

1 Q. And, so, does the warranty extend
2 to the end user of the engine?

3 A. What do you mean with the extend?

4 Q. Does that mean that if the end
5 user buys an engine, okay, buys a single --
6 buys for use the ultra-light and there is a
7 defect in materials or workmanship in the
8 engine, does the end user have certain
9 rights under that limited warranty, certain
10 rights specified? And how does the end
11 user make claim under that warranty?

12 A. He has to go back to the
13 authorized distributor.

14 Q. That would be Kodiak if it's the

15 U.S.?

16 A. Kodiak.

17 Q. Then, what does Kodiak have to do?

18 A. Well, Kodiak would handle the
19 warranty.

20 Q. And then does Kodiak get
21 reimbursed by Rotax for what Kodiak did
22 under the warranty?

23 A. He can go back to us and get
24 reimbursed.

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1 Q. All right. And who makes the
2 decision how much Kodiak gets reimbursed for
3 the warranty?

4 A. Well, there is a standard
5 procedure for which is specified the parts
6 and specified the labor, what's labor
7 allowance. And according to this, it would
8 be very clear how much a reimbursement would
9 be.

10 Q. Who established that reimbursement
11 schedule?

12 A. Rotax.

13 Q. And who established the price of
14 the part for reimbursement?

15 A. Well, that's -- the parts is based
16 on the spare parts price.

17 Q. Which is established by Rotax?

18 A. Yes.

19 Q. Now, does Rotax build any aircraft
20 engines that are certified by the Federal
21 Aviation Administration?

22 A. Well, the engines are certified by
23 the Austrian Civil Aviation Authority.

24 Q. Did Rotax go through the

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1 certification process with the Austrian
2 Civil Aviation Authority?

3 A. Yes.

4 Q. What model Rotax engines are
5 certified?

6 A. Well, 912A which is certified and
7 912F; the 912S and 914F. There are a few
8 others which are not anymore in production

8 A. Does support or to the Rotax
9 aircraft engines.

10 Q. All right. Can an end user
11 contact Rotax and get that support?

12 A. That's likely not possible. If
13 this would be, then we would refer the end
14 user back to the authorized distributor.

15 Q. So, if an end user had a technical
16 question about a Rotax engine and called the
17 factory, is it your testimony today that the
18 end user would not get an answer? He would
19 be told to contact Kodiak?

20 A. Yes.

21 Q. If Kodiak contacts the after-sales
22 department at Rotax, Kodiak will get an
23 answer?

24 A. Yes.

1 Q. And then Kodiak goes and gives
2 that answer to the end user?

3 A. Wherever he needs to bring it.

4 Q. Now, is there an accident

5 investigation arm of Rotax?

6 A. No.

7 Q. Does Rotax have any people who do

8 accident investigation employed by it?

9 A. No.

10 Q. Nowhere in the world?

11 A. No.

12 Q. So, if there is an accident
13 involving a Rotax engine, the Rotax factory
14 has no accident investigator designated to
15 investigate the accident?

16 A. No.

17 Q. Does Rotax require Kodiak to
18 investigate accidents involving Rotax
19 engines?

20 A. Well, Kodiak is responsible for
21 territory and this includes warranty
22 investigations also.

23 Q. Kodiak has the responsibility
24 according to Rotax to investigate accidents

1 in its territory involving Rotax engines?

2 A. Yes.

3 Q. Does Rotax provide any accident
4 investigation guideline material to Kodiak?

5 A. No.

6 Q. Does Rotax provide any guidance on
7 how Kodiak should investigate accidents?

8 A. No.

9 Q. Does Rotax provide any guidance on
10 how an accident investigator should be
11 trained to properly investigate an accident
12 involving a Rotax engine?

13 A. No.

14 Q. Does Rotax get a copy of any
15 report prepared by any accident investigator
16 hired by Kodiak?

17 A. No.

18 Q. Is Rotax interested in learning
19 what caused an accident involving a Rotax
20 engine?

21 A. Well, I think we interested on it,
22 but the investigator at the time, when he
23 investigated this, is an independent person.

24 Q. Rotax doesn't get a copy of any

1 report from him, is that right?

2 A. No.

3 Q. Rotax doesn't communicate with
4 Kodiak on the results of the accident
5 investigation?

6 A. Well, if the results is -- I mean
7 normally what I understand in an
8 investigation, investigation is carried out
9 by an authority and the authority will
10 choose the person who investigate that.

11 This is a neutral, by my understanding of an
12 investigation, should be a neutral person
13 and --

14 Q. Should be or is?

15 A. Is.

16 Q. Where did you get that
17 understanding?

18 A. Well, that is my understanding.

19 Q. Okay. Let me talk to you a little
20 bit about the structure of distribution of
21 Rotax aircraft engines. Does Bombardier
22 have any role to play in the distribution of
23 Rotax aircraft engines?

24 A. No.

24

MR. KELLY: Objection to the

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1 form.

2 BY MR. WOLK:

3 Q. Does Rotax receive money for sales
4 of Rotax engines in the United States?

5 A. Well, as I said, we sell engines
6 in Austria. We transfer the title in
7 Austria to the authorized distributor and at
8 this point in time we don't know where the
9 engines go and we don't care, basically. We
10 have our -- as long as we get the engines
11 paid. . .

12 Q. Okay. Let's back up a step.

13 Exhibit 1 is an agreement between Rotax and
14 Kodiak, right?

15 A. Correct.

16 Q. Exhibit 1 has a territory for
17 Kodiak for the sale of Rotax engines which
18 includes the United States of America, does
19 it not?

20 A. Yes.

18 what we produce for company. And at the
19 time point of sales is X worth, we don't
20 know where it goes. It's out of our
21 control.

22 Q. And Rotax gets paid by Bombardier
23 for the purchase of Rotax engines that are
24 used in recreational vehicles that are sold

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1 in the United States, is that correct?

2 A. Well, it's -- again, we have no
3 control where this engine goes. We sell
4 engines, X-work in Austria to Bombardier,
5 Inc., for their applications to Canada and
6 from there, I cannot tell.

7 Q. Mr. Furlinger, is it your
8 testimony today that you do not expect Rotax
9 engines to be sold in the United States both
10 in Bombardier recreational vehicles, BMW
11 motorcycles as well as aircraft engines sold
12 to Kodiak?

13 MR. KELLY: Objection to the
14 form.

15 BY MR. WOLK:

16 Q. You can answer it.

17 A. It's not what I'm saying. Engine
18 can be sold. The engine as a component can
19 be sold in the aircraft engines everywhere
20 in the world.

21 Q. That would include the
22 United States and the state of New Jersey?

23 A. Yes.

24 Q. I would like to talk about a

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1 company called Rotech. Are you familiar
2 with that company?

3 A. Yes.

4 Q. Is that the company in British
5 Columbia?

6 A. Yes.

7 Q. Can you tell me what is Rotech?

8 A. Rotech is the authorized
9 distributor for Rotax aircraft engines in
10 Canada.

11 Q. Has that always been true?

1 A. I don't know.

2 Q. Are you sure?

3 A. I don't recall.

4 Q. Doesn't Mr. Tucker train mechanics
5 in Rotax engines at the various dealers
6 appointed by Kodiak in the U.S.?

7 A. I don't know.

8 Q. Does Mr. Tucker investigate
9 accidents involving Rotax engines in the
10 U.S.?

11 A. Well, in this case what we talking
12 today, he is the investigator by the NTSB.

13 Q. I mean was Mr. Tucker an
14 investigator for any other accidents
15 involving Rotax engines in the U.S.?

16 A. I don't know.

17 Q. Does Rotax have any employees who
18 travel to the U.S.?

19 A. No.

20 Q. Does it have any technical
21 employees that come to the U.S.?

22 A. Not intentionally, no.

23 Q. It doesn't have people who visit
24 various companies to provide technical

1 assistance for the maintenance of Rotax
2 engines?

3 A. We don't do any business in the
4 U.S. for aircraft engines. We have no one
5 who is the responsibility of Kodiak
6 Research.

7 Q. Does Rotax have personnel who
8 travel to the U.S. to provide technical
9 assistance on snowmobiles, Sea-Do's and ATV
10 engines?

11 A. No.

12 Q. Have you ever been to the state of
13 New Jersey?

14 A. No.

15 Q. Have you ever traveled to the
16 United States and landed at the Newark,
17 New Jersey, airport?

18 A. Not by my recollection. Not my
19 airport.

20 Q. All right. Did you know
21 Mr. Vincent Vitullo?

22 A. No.

20 Q. For this case that we are here
21 about, right?

22 A. Yes.

23 Q. Is Mr. Kelly, to your knowledge,
24 retained in a case in Pennsylvania as well?

99

1 A. I don't know.

2 Q. Is Mr. Kelly the litigation person
3 for Rotax in the U.S. for accidents?

4 A. No.

5 Q. Has anybody from Rotax ever been
6 to Mr. Kelly's office in New Jersey?

7 A. No. He did not invite me.

8 Q. Can you tell us who it is that
9 determines the reliability requirements for
10 Rotax engines, aircraft engines?

11 A. The liability?

12 MR. KELLY: Reliability.

13 THE WITNESS: Reliability.

14 Well, can you specify exactly what you
15 mean on the reliability?

16 BY MR. WOLK:

17 Q. Who is it who designs Rotax
18 engines, aircraft engines?

19 A. Rotax.

20 Q. Who is it that selects the
21 materials for use in Rotax engines, aircraft
22 engines?

23 A. Rotax.

24 Q. Who is it writes the operator's

100

1 manual for Rotax aircraft engines?

2 A. Rotax does.

3 Q. Who is it that writes the
4 warranties for Rotax aircraft engines?

5 A. Rotax.

6 Q. Who pays for the warranty of the
7 Rotax engines?

8 A. If it's a warranty, we give a
9 credit.

10 Q. Who is it that makes parts for
11 Rotax aircraft engines?

12 A. Rotax.

13 Q. Who is it that designates the

14 territories for Rotax aircraft engines'

15 sales?

16 A. Rotax.

17 Q. Who is it that determines whether
18 an aircraft engine has to be recalled for
19 modification?

20 MR. KELLY: Objection to the
21 form.

22 BY MR. WOLK:

23 Q. You can answer.

24 A. Rotax will determine.

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1 Q. Who is it who issues Service
2 Bulletins and literature for Rotax engines?

3 A. Rotax.

4 Q. Who is it that established the
5 logo for Rotax aircraft engines?

6 A. Rotax.

7 Q. Who is it that established this
8 distribution network for Rotax engines with
9 distributors and dealers?

10 A. Rotax. The distributors,

1 entertain any racing team. Therefore, we
2 have no. . .

3 Q. Has Rotax ever filed a lawsuit in
4 the state of New Jersey?

5 A. I don't know.

6 Q. Has Rotax ever filed a lawsuit in
7 any state of the United States?

8 A. A lawsuit against what?

9 Q. Against anyone for any reason.

10 A. I don't know.

11 Q. Does Rotax have any technical
12 personnel that it sends to the U.S. for
13 assisting anyone in the repair or overhaul
14 of Rotax engines that are not used in
15 aircraft?

16 A. Well, as I said before, Rotax does
17 not have any business here; and I can only
18 speak for the aircraft engines because
19 that's the business what I know and I don't
20 know.

21 Q. Have you ever been to an office in
22 the United States that was either rented or
23 owned by Rotax?

24 A. None.

12

13

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18 apply to any reproduction of the same by any
19 means unless under the direct control and/or
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1 SIGNATURE PAGE

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3

4 I hereby acknowledge that I have read
5 the foregoing transcript, and the same is a
6 true and correct transcription of the
7 answers given by me to the questions
8 propounded, except for the changes, if any,